

44-16

(B)

ORIGINAL

BE IT ENACTED BY THE QUORUM COURT OF MILLER COUNTY, ARKANSAS:

AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE ESTABLISHING A CURFEW FOR JUVENILES

IN MILLER COUNTY, ARKANSAS AND DECLARING AN EMERGENCY

Title:

This article shall be known as "Curfew for Minors Ordinance".

Section ONE Purposes: The purposes of this Ordinance are to:

1. protect minors from criminal activity that occurs after the curfew hour;
2. protect minors from improper influences that prevail after the curfew hour;
3. protect the public from illegal acts of minors committed after the curfew hour; and
4. help parents, guardians, custodians, or other responsible persons, in carrying out their responsibility to exercise reasonable supervision of the children entrusted to their care.

Section TWO Findings:

The QUORUM COURT OF MILLER COUNTY, ARKANSAS, hereby finds there has been a significant breakdown in the supervision normally provided by certain parents and guidance for juveniles under eighteen (18) years of age resulting in juveniles being involved in a wide range of unacceptable behavior including vandalism, noisy and rowdy behavior, breaking and entering, public drinking and littering, harassment of residents, and more serious violent crimes including battery and murder.

404

MILLER CO QUORUM COURT further find that the offensive activities of the juveniles are not easily controlled by existing laws and ordinances because the activities are concealed whenever police officers are present and that the establishment of reasonable curfew regulations will enable the community to better control the free and unobstructed access to the streets and public places by the majority of residents and will enable the police to act reasonably and fairly to prevent the violation of laws and ordinances by juveniles.

MILLER CO QUORUM COURT further find and has determined that a curfew meets a very real local need and that curfew ordinances in other communities have been a factor in minimizing juvenile delinquency. A curfew in MILLER CO. is particularly appropriate in view of the basic residential nature of the community and the sense of the community that there is a proper time for the cessation of outdoor activities of juveniles. That this attitude of the community is reflected in the curfew hours declared by this ordinance which takes into consideration the danger hours for nocturnal crime.

Section THREE Definitions:

For the purposes of this Articles, the following words, terms and phrases shall have the meanings ascribed to them in this Section:

A. "curfew hours" mean

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.
- (3) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday ~~while~~ *while any school in Miller Co. is in session.*

B. "emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, a automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

C. "minor shall be an any person under eighteen (18) years of age.

D. "Parent" shall mean a person who is the natural parent, adoptive parent, or the step-parent of a person. As used herein, "parent" shall also include a court appointed guardian or other person twenty-one (21) years of age or older and authorized by the parent, by a custodial order, or by the court appointed guardian to have the care and custody of a person.

- 406
- (7) the minor was, with parental consent, in a motor vehicle engaged in interstate travel, beginning, ending or passing through Arkansas;
 - (8) the minor was on an errand at the direction of the minor's parent, without any detour or stop;
 - (9) the minor was on the property or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto if the owner or occupant of the adjacent building does not communicate an objection of the minor to the police department;
 - (10) the minor was attending or traveling directly to or from an activity involving the exercise of First and Fourteenth Amendment rights protected by the United States Constitution, including, but not limited to the free exercise of religion, freedom of speech, and the right of assembly;
 - (11) the minor is married and/or is living independently and self-sufficiently.
 - (12) the minor was following the direction of a peace officer;
 - (13) With respect to the hours between 9:00 a.m. and 2:30 p.m. only, that the offense occurred during the school summer vacation break period of the school in which the minor is enrolled or on a holiday observed by the closure of classes in the school in which the minor is enrolled.

B. Each of the foregoing exceptions, and their several limitations, are severable, as hereinafter provided but re-emphasized here.

Section SIX Parental Responsibility:

It shall be unlawful for a parent of juvenile to permit or allow the juvenile to be or remain upon any city street under circumstances not constituting an exception to, or otherwise beyond the scope of, the Curfew Ordinance. This ordinance is intended to hold neglectful or careless parents to a reasonable community standard of parental responsibility thorough an objective test. It shall be no defense that a parent was indifferent to the activities or conduct or whereabouts of such juvenile.

- a. Police procedures shall be refined in light of experience and may provide that the police officer may deliver to a parent or guardian thereof a juvenile under appropriate circumstances.

- E. "public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

Section FOUR Offenses:

- A. It shall be unlawful for any minor to intentionally or knowingly remain, walk, run, stand, drive or ride about in or upon any public place in MILLER COUNTY, Arkansas, during curfew hours.
- B. It shall be unlawful for the parent of a minor to knowingly permit, or by insufficient control to allow such minor to remain, walk, run, stand, drive or ride about, in or upon any public places in MILLER COUNTY, Arkansas during curfew hours. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody.

Section FIVE Exceptions - Defenses:

- A. It is a defense to prosecution under Section ~~THREE~~ of this Ordinance that, at the time of the act that otherwise would constitute an offense:
- (1) the minor was accompanied by his or her Parent;
 - (2) the minor was accompanied by an adult twenty-one (21) years of age or older designated by his or her parent;
 - (3) the minor was on an errand made necessary by an emergency;
 - (4) the minor was attending a school, religious activity, or government sponsored activity, or going to or coming from a school, religious, or government sponsored activity;
 - (5) the minor was engaged in a lawful employment activity or volunteer work at a recognized charity institution, or going to or coming from such activity without detour or stop;
 - (6) the minor was attending an official school, religious, or other recreational activity supervised by adults and sponsored by _____, Arkansas, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by _____, Arkansas, a civic organization, or another similar entity that takes responsibility for the minor;

- b. When a parent or guardian has been notified to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be held in accordance with Arkansas and Federal law.
- c. In the case of a first violation by a juvenile the citation issued shall constitute written notice of the violation and subject the juvenile to the penalties in the Curfew Ordinance. Any subsequent violation by the juvenile will result in full enforcement of the Curfew Ordinance, including enforcement of parental responsibility and of applicable penalties.

Section ^{SEVEN} Supplemental Effect:

The provisions of this Article are supplemental and shall be cumulative with all other laws and ordinances applicable in any manner to juveniles.

Section ^{EIGHT} Enforcement:

Before taking any enforcement action under this Article, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances no defense in this ordinance is present.

Section ^{NINE} Penalties:

- A. Any violation of the Curfew Ordinance, the juvenile shall be subject to the following penalties:
1. a fine of not less than \$100.00, nor more than \$500.00; and/or
 2. an order to perform community service.
- B. If after the first offense, pursuant to Section [redacted] by a juvenile, a parent violates Section [redacted] (in connection with a second violation by the juvenile), this shall be treated as a first offense by the parent. For parental offenses, a parent may be fined not less than \$100.00, nor more than \$500.00.
- C. Any juvenile who shall violate any of the provision of the curfew ordinance more than three times shall be reported by the SHERIFF'S DEPT. to the juvenile authorities as a juvenile in need of supervision and the SHERIFF'S DEPT. shall refer the matter to the Miller County Prosecuting Attorney and/or the Arkansas Department of Humans Services and/or other appropriate authorities.

Section ^{TEN} Construction and Severability.

- A. Severability is intended throughout and within the provisions of this Curfew Ordinance. If any provisions, including inter alia any exception, defense, subsection, part, phrase, term or word, or the application thereof to any person or circumstance is held invalid or unconstitutional by valid judgment or decree of a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and such remaining portions shall remain in full force and effect.
- B. It is intended that the Curfew Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given. MILLER COUNTY does not intend to violate the Constitution of the State of Arkansas or the Constitution of the United States of America, and does not intend an interpretation of this Ordinance or an publication therefore which is absurd, impossible or unreasonable.

Section That all ordinances or part of ordinances in conflict herewith are
ELEVEN specifically repealed.

Section It is hereby found and declared that the need for control over activities
TWELVE director toward minors which could result in the need for imposing a curfew for minors as necessary to the well-being of the community. Therefore, this ordinance is necessary to protect the health, safety and welfare, and shall be in full force and effect from and after its passage.

PASSED AND APPROVED this

Hubert Eastley
 Judge

ATTEST:

Ann D. Chabon